

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

\_\_\_\_\_  
WALTER PHILLIPS, On Behalf of Himself and  
All Others Similarly Situated,

Plaintiff,

v.

MOLSON COORS BREWING COMPANY,  
et al.

Defendants.

C.A. No. 05-604-KAJ

**DEFENDANTS' MOTION TO DISMISS THE COMPLAINT**

Pursuant to Rule 12(b)(1), 12(b)(6) and 12(h)(3) of the Federal Rules of Civil Procedure, Defendants Molson Coors Brewing Company, Peter H. Coors, W. Leo Kiely III, Charles M. Herington, Franklin W. Hobbs, Randall Oliphant, Pamela Patsley, Wayne Sanders, Albert C. Yates, Barbara Albanesi, David Barnes, Chat Chatterjee, James Fredericks, Michael J. Gannon, Robert Klugman, Michael Kruteck, Vonda Mills, Jeff Morgan, Michael Rumley, Ben Schwartz, Rob Witwer, Timothy Wolf, Katherine L. MacWilliams and Harold R. Smethhills, through their undersigned counsel, move this Court before the Honorable Kent A. Jordan, United States District Judge, to dismiss Plaintiffs' March 30, 2006 Consolidated Amended Class Action Complaint for failure to state a claim upon which relief may be granted.

In support of this Motion, Defendants submit their opening brief, the accompanying May 30, 2006 affidavit of Tamsin J. Newman and the exhibits thereto. For all the reasons set forth in the opening brief, Defendants respectfully request that this Court dismiss the Consolidated Amended Class Action Complaint, with prejudice and in its entirety, by entering the attached Order, together with such other and further relief as the Court deems just and proper.

Respectfully submitted,

Of Counsel:

Brian T. Ortelere  
Morgan Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, Pennsylvania 19103-2921  
(215) 963-5150/5201

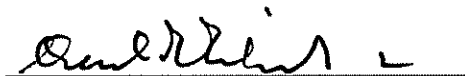
Donald L. Havermann  
Morgan Lewis & Bockius LLP  
1111 Pennsylvania Avenue, NW  
Washington, DC 20004  
(202) 739-5072

Tamsin J. Newman  
Morgan, Lewis & Bockius LLP  
101 Park Avenue  
New York, NY 10178-0600  
(212) 309-6367

Attorneys for Defendants Peter H. Coors, W. Leo Kiely III, Charles M. Herington, Franklin W. Hobbs, Randall Oliphant, Pamela Patsley, Wayne Sanders, and Albert C. Yates, Barbara Albanesi, David Barnes, Chat Chatterjee, James Fredericks, Michael J. Gannon, Robert Klugman, Michael Kruteck, Vonda Mills, Jeff Morgan, Michael Rumley, Ben Schwartz, Rob Witwer, Timothy Wolf, Katherine L. MacWilliams and Harold R. Smethhills

Michael R. Young  
Antonio Yanez  
Willkie Farr & Gallagher  
787 Seventh Avenue  
New York, NY 10019-6099  
(212) 728-8000  
(212) 728-8111 (fax)

Attorneys for Defendant Molson Coors Brewing Company



Charles F. Richards, Jr. (#701)

*richards@rlf.com*

Jeffrey L. Moyer (#3309)

*moyer@rlf.com*

Elizabeth C. Tucker (#4468)

*tucker@rlf.com*

Richards, Layton & Finger, P.A.

One Rodney Square, P.O. Box 551

Wilmington, Delaware 19899-0551

(302) 651-7700

Attorneys for Defendants Molson Coors Brewing Company, Peter H. Coors, W. Leo Kiely III, Charles M. Herington, Franklin W. Hobbs, Randall Oliphant, Pamela Patsley, Wayne Sanders, and Albert C. Yates, Barbara Albanesi, David Barnes, Chat Chatterjee, James Fredericks, Michael J. Gannon, Robert Klugman, Michael Kruteck, Vonda Mills, Jeff Morgan, Michael Rumley, Ben Schwartz, Rob Witwer, Timothy Wolf, Katherine L. MacWilliams and Harold R. Smethhills

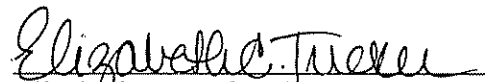
Dated: May 31, 2006

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on May 31, 2006, copies of the Motion to Dismiss the Complaint and Proposed Order were served upon the following counsel of record in the manner indicated:

**BY CM/ECF:**

Pamela S. Tikellis  
Chimicles & Tikellis LLP  
One Rodney Square  
P.O. Box 1035  
Wilmington, Delaware 19899

  
Elizabeth C. Tucker (#4468)  
*tucker@rlf.com*